

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MMG FINANCIAL CORP.,

Plaintiff,

v.

Case No. 06-C-929

MIDWEST AMUSEMENT PARK, LLC, et al.,

Defendant.

ORDER

A hearing was held on July 12, 2010, after which I granted in part Plaintiff's motion for sanctions. After detailing a litany of improper behavior on the Defendants' part, I nevertheless declined to enter a default judgment because I found that their conduct was perhaps not so outrageous that such a stiff sanction would be warranted. I did warn counsel and the Defendants that one more incident of misconduct would warrant a default judgment as a sanction.

Plaintiff has now filed a third motion seeking default judgment. It asserts that the bank statements provided by Defendants' counsel in open court are merely partial records, and even these records reveal a suspicious withdrawal of almost the entire balance in late May. Moreover, counsel sent a letter asking for payment of the monetary sanction and complete responses by a certain date, and Defendants have not responded to that request.

Defendants argue that Plaintiff's counsel cannot create "deadlines" of his own and then use their violation as a basis for sanctions. Apart from the letter sent by counsel, they argue, nothing of substance has occurred since the July hearing. Thus, there is no basis for sanctions.

Although there is some ostensible merit to the Defendants' protests, this motion for sanctions is not brought in a vacuum. The Defendants spend seven pages contesting the present motion, but nowhere do they explain why they cannot, or will not, produce the records that have been sought exhaustively by Plaintiffs, or when the sanction ordered by this Court will be paid. (They do not even suggest that the check is in the mail!) Moreover, they protest that nothing of "substance" has changed since the July hearing, but that is precisely the point: nothing has changed. They have not paid the monetary sanction ordered by this Court, and they have not produced the documents Plaintiff seeks. They take the Plaintiff to task for filing a premature motion, but in doing so they continue to defy providing the very information sought in the Plaintiff's motion. Typically, a party will argue that the movant was overhasty and that it is in the process of complying with the movant's requests, but here any whiff of compliance is absent. How is a Court to find for the Defendants when the entirety of their numerous responses is limited to invective and stonewalling, without any defense to the substance of the requests or any hint that they will *ever* comply with court orders or discovery requests? Denying relief to the Plaintiffs at this point would simply start up the merry-go-round again, with another flurry of letters and another motion for default judgment when its requests have gone ignored. After the last hearing, I noted that we were at the limit, and we are now beyond it. The motion for default judgment will therefore be **GRANTED**, as will the request for \$1,806 in attorney's fees. Plaintiff shall submit a proposed order detailing the specific relief sought as soon as practicable.

SO ORDERED this 21st day of October, 2010.

s/ William C. Griesbach

William C. Griesbach
United States District Judge